IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2339 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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M B BHATT - Petitioner
Versus
JT DIRECTOR, & 2 - Respondents

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Appearance :
MR D.U. SHAH for Petitioner.
MR LB DABHI, AGP for Respondent(s) : 1,
MR SV KOPPAR for Respondent(s) : 2,
MR PRAKASH K JANI for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 13/12/2005

ORAL JUDGMENT

1.The petitioner has filed this petition under Article 226 of the Constitution of India praying for the direction to the respondent No. 1 to repatriate the petitioner to his parent Govt. office. The petitioner has also prayed for quashing and setting aside the transfer order dated 22.06.1983.

2.It is the case of the petitioner that the respondent No. 1 i.e. Joint Director, Department of Agriculture, State of Gujarat, Ahmedabad has passed an order on 01.07.1982 inter alia deputing the petitioner for a period of two years with effect from 01.07.1982, from his post of Clerk-cum-tracer from the office of the Divisional Soil Conservation to the office of the Gujarat Land Development Corporation Limited at Ahmedabad and was posted at Bhavnagar. On 22.06.1983, the then Managing

Director Shri A.K. Pradhan of the respondent no. 2 – Corporation passed an order transferring Shri S.J. Jethwa, Junior Clerk-cum-tracer from Savarkundla to Bhavnagar, on his request and the petitioner from Bhavnagar to Savarkundla in the assumed interest of services. On 17.04.1984, the Joint Director of Agriculture of the State of Gujarat passed an order repatriating the petitioner to the State Government Services in the office of the Joint Director of Agriculture Land Development, Rajkot Division at Rajkot, in view of the option exercised by the petitioner.

3.Being aggrieved by the transfer order on 29.06.1983, the petitioner filed Regular Civil Suit No. 599 of 1983 against the respondent Nos. 2 & 3 in the Court of Civil Judge (S.D.), Bhavnagar for a declaration that the transfer order was illegal, null and void and for injunction against its implementation. The

petitioner also applied for ad-interim injunction order wherein status-quo order was passed. On 19.12.1985, the Trial Court passed the order vacating status quo order with effect from 30.04.1986. The petitioner's deputation had ended on 01.07.1984, as he was deputed for only two years. The respondent No. 1 has passed an order dated 17.04.1984 appointing the petitioner in office of the Joint Director of Agriculture (Land Development) at Rajkot and hence, civil suit filed by the petitioner has become infructuous and the petitioner has undertaken to withdraw the said suit within one week.

4.Affidavit-in-reply was filed on behalf of respondent No. 2. It was stated that the petitioner was posted at Bhavnagar w.e.f. 01.07.1982. Thereafter, the petitioner was sought to be transferred from Bhavnagar to Savarkundla by order dated 22.06.1983 passed by

the Managing Director of respondent No. 2 Corporation. The petitioner filed Regular Civil Suit No. 599 of 1983 against the respondent Nos. 2 & 3 in the Court of Civil Judge (S.D.), Bhavnagar challenging the aforesaid transfer order for a declaration that the transfer order was illegal, null and void and for injunction against its implementation. The petitioner also applied for ad-interim injunction order wherein status-quo order was passed. On 19.12.1985, the Trial Court passed the order vacating status quo order with effect from 30.04.1986. Inspite of the above facts, the petitioner did not move to this Court till the last week of April 1986. On the returnable date i.e. 30th April 1986, the Court did not grant any ad-interim injunction against the petitioner's transfer, but in view of the petitioner's contention that he was desirous of being repatriated to his parent Department in the Directorate of Agriculture, but the

representative from the office of Directorate of Agriculture was not present before this Court at the time of hearing on 01.05.1986, this Court was pleased to admit the petition and issued notice as to interim relief returnable on 23.06.1986, as the petitioner wanted to pray for interim order for his repatriation for which purpose he was required to file a Civil Application for amending the petition so as to claim by way of interim relief what he has prayed for by way of final relief regarding repatriation. The Court has not granted any ad-interim injunction against the petitioner's transfer from Bhavnagar and hence, the petitioner has already been relieved in May 1986.

5.In view of the facts stated and averments made in the affidavit-in-reply, this Court is of the view that the petition has become infructuous. Nothing survives in the petition. The petition

is accordingly disposed of. Rule discharged without any order as to costs.

[K.A. PUJ, J.]

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